



# GENERAL ASSEMBLY COMMONWEALTH OF KENTUCKY

## 2006 REGULAR SESSION

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HOUSE BILL NO. 374

AS ENACTED

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TREY GRAYSON  
SECRETARY OF STATE  
COMMONWEALTH OF KENTUCKY  
BY R. Adler

AN ACT relating to administrative regulations.

***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

1 Section 1. KRS 13A.240 is amended to read as follows:

2 (1) Every administrative body shall prepare and submit to the Legislative Research  
3 Commission an original and five (5) duplicate copies of a regulatory impact analysis  
4 for every administrative regulation when it is filed with the Commission. The  
5 regulatory impact analysis shall include the following information:

6 (a) A brief narrative summary of:

- 7 1. What the administrative regulation does;
- 8 2. The necessity of the administrative regulation;
- 9 3. How the administrative regulation conforms to the content of the  
10 authorizing statutes; and
- 11 4. How the administrative regulation currently assists or will assist in the  
12 effective administration of the statutes;

13 (b) If this is an amendment to an existing administrative regulation, a brief  
14 narrative summary of:

- 15 1. How the amendment will change the existing administrative regulation;
- 16 2. The necessity of the amendment to the administrative regulation;
- 17 3. How the amendment conforms to the content of the authorizing statutes;  
18 and
- 19 4. How the amendment to the administrative regulation will assist in the  
20 effective administration of the statutes;

21 (c) The type and number of individuals, businesses, organizations, or state and  
22 local governments affected by the administrative regulation;

23 (d) An analysis~~[assessment]~~ of how the entities referenced in paragraph (c) of  
24 this subsection~~[above group or groups]~~ will be impacted by either the  
25 implementation of this administrative regulation, if new, or by the change if it

is an amendment to an existing administrative regulation. The analysis shall include, but not be limited to:

1. A detailed explanation of the actions the entities referenced in paragraph (c) of this subsection will be required to undertake in order to comply with the proposed administrative regulation;

2. An estimate of the costs imposed on entities referenced in paragraph (c) of this subsection in order to comply with the proposed administrative regulation; and

3. The benefits that may accrue to the entities referenced in paragraph (c) of this subsection as a result of compliance;

(e) An estimate of how much it will cost the administrative body to implement this administrative regulation, both initially and on a continuing basis;

(f) The source of the funding to be used for the implementation and enforcement of the administrative regulation;

(g) An assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation or amendment to an existing administrative regulation;

(h) A statement as to whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees; and

(i) The tiering statement required by KRS 13A.210.

(2) The Legislative Research Commission shall review all regulatory impact analyses submitted by all administrative bodies, and prepare a written analysis thereof and of the administrative regulation. The Legislative Research Commission may require any administrative body to submit background data upon which the information required by subsection (1) is based, and an explanation of how the data was gathered.

Section 2. KRS 13A.250 is amended to read as follows:

1 (1) Each administrative body ~~that~~<sup>which</sup> promulgates an administrative regulation  
 2 which relates to any aspect of state or local government or any service provided  
 3 thereby shall consider the cost that the administrative regulation may cause the  
 4 state or local government to incur. The cost analysis shall include the projected  
 5 cost or cost savings to the Commonwealth of Kentucky and each of its affected  
 6 agencies, and the projected cost or cost savings to affected local governments,  
 7 including cities, counties, fire departments, and school districts. Agencies affected  
 8 by the administrative regulation may submit comments in accordance with KRS  
 9 13A.270(1) to the promulgating administrative body or to a subcommittee  
 10 reviewing the administrative regulation.

11 (2) Each administrative body that promulgates an administrative regulation which  
 12 relates to any aspect of state or local government or any service provided thereby  
 13 shall prepare and submit with the administrative regulation a fiscal note.

14 ~~{(2)}~~ The fiscal note shall state:

- 15 (a) The number of the administrative regulation;
- 16 (b) The name and telephone number of the contact person of the administrative  
 17 body;
- 18 (c) Whether the administrative regulation relates to any aspect of state or~~a~~ local  
 19 government, including any service provided by that state or local government;
- 20 (d) The unit, part, or division of state or local government the administrative  
 21 regulation will affect;
- 22 (e) In detail, the aspect or service of state or local government to which the  
 23 administrative regulation relates, including identification of the applicable  
 24 state or federal statute or regulation that mandates the aspect or service or  
 25 authorizes the action taken by the administrative regulation; and
- 26 (f) The estimated effect of the administrative regulation on the expenditures and  
 27 revenues of a state or local government agency for the first full year the

1 administrative regulation will be in effect. If specific dollar estimates cannot  
2 be determined, the administrative body shall provide a brief narrative to  
3 explain the fiscal impact of the administrative regulation.

- 4 (3) Any administrative body may request the advice and assistance of the Commission  
5 in the preparation of the fiscal note.

6 Section 3. KRS 13A.270 is amended to read as follows:

7 (1) (a) In addition to the public comment period required by paragraph (c) of this  
8 subsection, following publication in the Administrative Register of the text of  
9 an administrative regulation, the administrative body shall, unless authorized  
10 to cancel the hearing pursuant to subsection (7) of this section, hold a hearing,  
11 open to the public, on the administrative regulation.

12 (b) The public hearing shall not be held before the twenty-first day or later than  
13 the last workday of the month in which the administrative regulation is  
14 published in the Administrative Register.

15 (c) The administrative body shall accept written comments regarding the  
16 administrative regulation until the end of the calendar month in which the  
17 administrative regulation was published in the Administrative Register. If the  
18 last day of the calendar month falls on a Saturday, Sunday, or holiday, the  
19 administrative body shall consider all comments received prior to the close of  
20 business of the first workday following the Saturday, Sunday, or holiday.

21 (2) Each administrative regulation shall state:

22 (a) The place, time, and date of the scheduled public hearing;

23 (b) The manner in which interested persons shall submit their:

24 1. Notification of attending the public hearing; and

25 2. Written comments;

26 (c) That notification of attending the public hearing shall be transmitted to the  
27 administrative body no later than five (5) workdays prior to the date of the

1 scheduled public hearing;

2 (d) The deadline for submitting written comments regarding the administrative  
3 regulation in accordance with paragraph (c) of subsection (1) of this section;  
4 and

5 (e) The name, position, address, and telephone and facsimile numbers of the  
6 person to whom a notification and written comments shall be transmitted.

7 (3) (a) ~~[An administrative body shall provide a form to be completed and filed by]~~ A  
8 person who wishes to be notified that an~~[the]~~ administrative body has filed an  
9 administrative regulation shall:

10 1. Contact the administrative body by telephone or written letter to  
11 request that the administrative body send the information required by  
12 paragraph (c) or (d) of this subsection to the person; or

13 2. Complete an electronic registration form located on a centralized state  
14 government Web site developed and maintained by the  
15 Commonwealth Office of Technology.

16 (b) A registration submitted pursuant to paragraph (a) of this subsection shall:

17 1. Indicate whether the person wishes to receive notification regarding:

18 a. All administrative regulations promulgated by an administrative  
19 body; or

20 b. Each administrative regulation that relates to a specified subject  
21 area. The subject areas shall be provided by the administrative  
22 bodies and shall be listed on the centralized state government  
23 Web site in alphabetical order;

24 2. Include a request for the person to provide an e-mail address in order  
25 to receive regulatory information electronically;

26 3. ~~[. This registration shall]~~ Be valid for a period of four (4) years from the  
27 date the registration is submitted~~[form is filed with the administrative~~

body], or until the person submits a written request to be removed from the notification list, whichever occurs first; and

4. Be transmitted to the promulgating administrative body, if the registration was made through the centralized state government Web site. ~~[The form shall include a space for the person to provide an e-mail address in order to receive the information electronically.]~~ The collected e-mail addresses shall be used solely for the purposes of this subsection and shall not be sold, transferred, or otherwise made available to third parties, other than the promulgating administrative body.

~~(c)(b)~~ A copy of the administrative regulation as filed, and all attachments required by KRS 13A.230(1), shall be e-mailed:

1. To every person who has:
  - a. Registered pursuant to paragraph (a) of this subsection ~~[Filed this form with the administrative body];~~ and
  - b. Provided an e-mail address as part of the registration request ~~[to the administrative body];~~
2. Within five (5) working days after the date the administrative regulation is filed with the Commission; and
3. With a request from the administrative body that affected individuals, businesses, or other entities submit written comments that identify the anticipated effects of the proposed administrative regulation.

~~(d)(e)~~ Within five (5) working days after the date the administrative regulation is filed with the Commission, the administrative body shall mail the following information to every person who has registered pursuant to paragraph (a) of this subsection ~~[filed the form with the administrative body]~~ but did not provide an e-mail address:

1. A cover letter from the administrative body requesting that affected

- 1 individuals, businesses, or other entities submit written comments that  
2 identify the anticipated effects of the proposed administrative regulation;
- 3 2. A copy of the regulatory impact analysis required by KRS 13A.240 of  
4 this Act completed in detail sufficient to put the individual on notice as  
5 to the specific contents of the administrative regulation, including all  
6 proposed amendments to the administrative regulation; and
- 7 3. A statement that a copy of the administrative regulation may be obtained  
8 from the Commission's Web site, which can be accessed on-line through  
9 public libraries or any computer with Internet access. The Commission's  
10 Web site address shall be included in the statement.
- 11 (4) (a) If small business may be impacted by an administrative regulation, the  
12 administrative body shall e-mail a copy of the administrative regulation as  
13 filed, and all attachments required by KRS 13A.230(1), to the chief executive  
14 officer of the Commission on Small Business Advocacy within one (1)  
15 working day after the date the administrative regulation is filed with the  
16 Commission.
- 17 (b) The e-mail shall include a request from the administrative body that the  
18 Commission on Small Business Advocacy review the administrative  
19 regulation in accordance with KRS 11.202(1)(e) and submit its report or  
20 comments in accordance with the deadline established in subsection (1)(c) of  
21 this section. A copy of the report shall be filed with the regulations compiler.
- 22 (5) (a) If a government may be impacted by an administrative regulation, the  
23 administrative body shall send, by e-mail if the government has an e-mail  
24 address, a copy of the administrative regulation as filed and all attachments  
25 required by KRS 13A.230(1) to each government in the state within one (1)  
26 working day after the date the administrative regulation is filed with the  
27 Commission. If the government does not have an e-mail address, the material



1           shall not be sent.

2           (b) The e-mail shall include a request from the administrative body that the  
3           government review the administrative regulation in the same manner as would  
4           the Commission on Small Business Advocacy under KRS 11.202(1)(e), and  
5           submit its report or comments in accordance with the deadline established in  
6           subsection (1)(c) of this section. A copy of the report or comments shall be  
7           filed with the regulations compiler.

8       (6) Persons desiring to be heard at the hearing shall notify the administrative body in  
9           writing as to their desire to appear and testify at the hearing not less than five (5)  
10          workdays before the scheduled date of the hearing.

11       (7) The administrative body shall immediately notify the regulations compiler by  
12          telephone and by letter if:

13           (a) No written notice of intent to attend the public hearing is received by the  
14           administrative body at least five (5) workdays before the scheduled hearing,  
15           and it chooses to cancel the public hearing; and

16           (b) No written comments have been received by the close of the last day of the  
17           public comment period.

18       (8) (a) 1. Upon receipt from interested persons of their intent to attend a public  
19           hearing, the administrative body shall notify the regulations compiler by  
20           telephone and by letter that the public hearing shall be held.

21           2. If the public hearing is held but no comments are received during the  
22           hearing, the administrative body shall notify the regulations compiler by  
23           telephone and by letter that the public hearing was held and that no  
24           comments were received.

25           (b) Upon receipt of written comments, the administrative body shall notify the  
26           regulations compiler by telephone and by letter that written comments have  
27           been received.

1 (9) If the notifications required by subsections (7) and (8) of this section are not  
 2 received by the regulations compiler by close of business on the second workday of  
 3 the calendar month, the administrative regulation shall be deferred to the next  
 4 regularly scheduled meeting of the subcommittee.

5 (10) The notifications required by subsections (7) and (8) of this section shall be made  
 6 by telephone and by letter. The letter may be sent by e-mail if the administrative  
 7 body uses an electronic signature and letterhead for the e-mailed document.

8 (11) Every hearing shall be conducted in such a manner as to guarantee each person who  
 9 wishes to offer comment a fair and reasonable opportunity to do so, whether or not  
 10 such person has given the notice contemplated by subsection (6) of this section. No  
 11 transcript need be taken of the hearing, unless a written request for a transcript is  
 12 made, in which case the person requesting the transcript shall have the  
 13 responsibility of paying for same. A recording may be made in lieu of a transcript  
 14 under the same terms and conditions as a transcript. This section shall not preclude  
 15 an administrative body from making a transcript or making a recording if it so  
 16 desires.

17 (12) Nothing in this section shall be construed as requiring a separate hearing on each  
 18 administrative regulation. Administrative regulations may be grouped at the  
 19 convenience of the administrative body for purposes of hearings required by this  
 20 section.

21 SECTION 4. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO  
 22 READ AS FOLLOWS:

23 (1) Each cabinet secretary on the Governor's Executive Cabinet, established  
 24 pursuant to KRS 11.065, shall designate a small business ombudsman from  
 25 among their respective existing cabinet employees.

26 (2) The small business ombudsman shall:

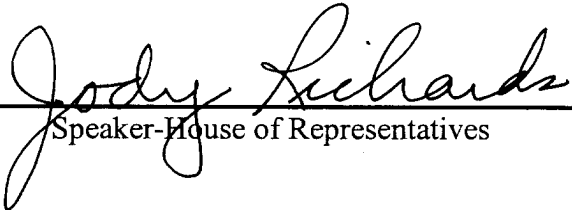
27 (a) Respond to inquiries from small businesses on administrative regulations

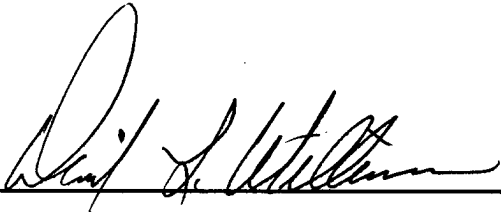
1           and other regulatory matters; and

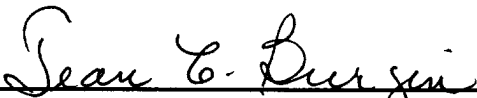
2           (b) Provide information regarding the procedure for submitting comments on  
3           administrative regulations as provided by subsection (1) of Section 3 of this  
4           Act.


5           (3) Each cabinet shall provide contact information for the cabinet's small business  
6           ombudsman on the cabinet's Web site, including the ombudsman's name,  
7           telephone number, mailing address, and e-mail address.

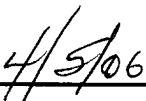
8           (4) No later than December 1 of each year, each small business ombudsman shall  
9           submit a report to the Commission on Small Business Advocacy, established  
10          pursuant to KRS 11.200, summarizing the number and nature of inquiries that  
11          the ombudsman has received from small businesses during the previous twelve  
12          (12) months.

  
\_\_\_\_\_  
Speaker-House of Representatives

  
\_\_\_\_\_  
President of the Senate

Attest:   
\_\_\_\_\_  
Chief Clerk of House of Representatives

Approved   
\_\_\_\_\_  
Governor

Date   
\_\_\_\_\_